

Application No.: 10/646,304

Docket No.: 60680-1748

**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Fig. 1.

The following element numbers were disclosed in the Description of the Preferred Embodiment but were omitted from the original set of drawings:

34 – sealing interface

52 – bottom of upper portion 18

No new matter has been added.

Attachment: Replacement sheet

Applicant also submits the Replacement drawings to the Patent Draftsman under separate cover via first class mail. A copy of the submission is attached to this Amendment.

Application No.: 10/646,304

Docket No.: 60680-1748

**REMARKS**

Applicants have reviewed the detailed Office Action mailed 11/04/2004 and thank Examiner Moulis for a prompt review. Claims 1-12 were rejected. Claims 1 and 7 have been amended. Claims 13-18 have been added. Thus, claims 1-18 will be pending upon entry of this amendment. Applicants request reconsideration of the pending claims in view of the above amendments and the following remarks.

**Claim Rejections – 35 USC §102**

Claims 1-2, 6-8 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by Binford et al. (U.S. Patent No. 4,909,202). Claims 1-2, 6-8 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (U.S. Patent No. 3,379,445). Claims 1-12 were rejected under 35 U.S.C. 102(b) as being anticipated by Kammeraad (U.S. Patent No. 4,502,696). Applicant respectfully traverses the rejection.

Rejections under 35 U.S.C. § 102 require that a single reference disclose each and every claim element either expressly or inherently. *In re Roberson et al.*, 169 F.3d 743, 745 (Fed. Cir. 1999). To anticipate, a single reference must describe the subject matter claimed in the patent with sufficient detail and clarity to demonstrate that the subject matter existed and that a person of ordinary skill in the art would have recognized its existence in the asserted prior art reference. *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 545 (Fed. Cir. 1998). Therefore, a claim is anticipated only if each and every element as set forth in the claim is expressly or inherently described in a single prior art reference. *See MPEP §2131*.

Regarding Claims 1 and 7, Applicant submits that the references cited by the Office Action do not anticipate the above claims as amended. Applicant's invention is directed to a valve stem seal assembly with a changeable cap having at least one break-away tab for removing the cap. The cap may be easily removed by separating and lifting the tab from the remainder of the cap to allow the ribs of the tab to disengage the ribs of the retainer, thereby facilitating the release and removal of the cap from the retainer.

The *American Heritage Dictionary of English Language*, 4<sup>th</sup> edition, defines "tab" as "a projection, flap, or short strip attached to an object to facilitate opening, handling, or

Application No.: 10/646,304

Docket No.: 60680-1748

identification.” The “tab” cited by the Office Action in each of the three referenced patents does not meet this definition.

Regarding the ‘202 patent issued to Binford, the Office Action claims that a cap 10 has a shell 12 that is referred to as a “tab”. However, the shell/tab is one continuous unit that is not a “projection, flap, or short strip” that may be used to facilitate the removal of the cap from the retainer. While there is a “projection” on the surface of the shell, this projection 38 is used to ensure that the shell remains properly seated on the retainer and is not used in the removal process. Nowhere does Binford teach that the shell 12 may be lifted separately or “broken-away” from the rest of the cap 10 to facilitate removal of the cap from the retainer. As such claims 1-2, 6-8, and 12 are not anticipated by Binford.

Regarding the ‘445 patent issued to Fisher, the Office Action claims that a cap 52 has a tab. However, the cap 52 is one continuous unit and the “tab” cited by the Office Action is not a “projection, flap, or short strip” that may be used to facilitate the removal of the cap from the retainer. The flange 58 and flange lip 56 are one continuous piece that surround the retainer. Nowhere does Fisher teach that the flange 58 or flange lip 56 may be lifted separately or “broken-away” from the rest of the cap 52 to facilitate removal of the cap from the retainer. As such claims 1-2, 6-8, and 12 are not anticipated by Fisher.

Regarding the ‘061 patent issued to Kammeraad, the Office Action claims that a cap 238 has a tab 241. However, the cap 238 is one continuous unit and the “tab” cited by the Office Action is not a “projection, flap, or short strip” that may be used to facilitate the removal of the cap from the retainer. The cap 238 is one continuous piece that surrounds the retainer. Nowhere does Kammeraad teach that the tab 241 may be lifted separately or “broken-away” from the rest of the cap 238 to facilitate removal of the cap from the retainer. As such claims 1-2, 6-8, and 12 are not anticipated by Kammeraad.

#### **Claim Rejections – 35 USC §103**

Claims 3-5 and 9-11 were further rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of Kammeraad (‘061). Applicant respectfully traverses the rejection. In light of the above amendments to Claims 1 and 7 and the discussion above, Applicant believes

Application No.: 10/646,304

Docket No.: 60680-1748

that the "subject matter as a whole is not obvious to a person of ordinary skill in the art." As such claims 3-5 and 9-11 are patentable over Fisher in view of Kammeraad.

### CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 60680-1748 from which the undersigned is authorized to draw.

Dated: *Jan. 31, 2005*

Respectfully submitted,

By 

Patrick Mastrogiacomo

Registration No.: 56,111

Kristin L. Murphy

Registration No.: 41,212

RADER, FISHMAN &amp; GRAUER PLLC

39533 Woodward Avenue

Suite 140

Bloomfield Hills, Michigan 48304

(248) 594-0600

Attorneys for Applicant

R0276813.DOC